

**STATE OF WASHINGTON****OFFICE OF  
INSURANCE COMMISSIONER****BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON**

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In the Matter of	)	No. D 99-59
	)	
<b>GENESIS</b>	)	CONSENT ORDER LEVYING A FINE
<b>INSURANCE COMPANY</b>	)	
An Authorized Insurer.	)	

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**FINDINGS OF FACT**

1. Genesis Insurance Company ("Genesis" or the "Company") is a property and casualty carrier licensed to do business in the State of Washington.
2. In November 1996, the Washington Insurance Examining Bureau (WIEB) conducted an audit of Genesis. The audit, based on a sampling of Company policies, revealed discrepancies between the Company's filed rates and premiums charged on two of its ski area policies. The rates Genesis charged were less than its approved rates.
3. In May 1997, Genesis requested from the Office of the Insurance Commissioner ("OIC") a waiver of the additional premiums for those two policies.
4. In October 1997, the WIEB conducted another audit of Genesis. The audit revealed discrepancies between the Company's filed rates and premiums charged on four more of its ski area policies. The rates Genesis charged were again less than its approved rates.
5. In May 1998, Genesis requested from the OIC a waiver of the additional premiums for those four policies.
6. On May 15, 1998, the OIC wrote Genesis to advise that it was deferring action on the Company's May 1998 request for a waiver of the additional premiums and that it was seeking an explanation for

why there was such a large discrepancy between the rates approved by the agency and the rates the Company actually charged its policyholders.

7. In a June 26, 1998 letter to the OIC, Genesis acknowledged the discrepancies between its filed rates and the premiums charged on the cited ski area policies and attributed the actions to competitive pricing in the marketplace, both generally and for ski areas, and the placement of the policies in the admitted market from the unregulated excess and surplus lines market.

8. In subsequent correspondence with the OIC, Genesis indicated its intent to file a new rating plan for the ski program, but instead filed a loss cost multiplier on October 28, 1998. Genesis gave no indication that its October filing was intended to apply to its ski rates, nor did it actually charge the rates set forth in the October filing.

9. On at least one occasion, Genesis failed to respond completely to OIC inquiries in a timely manner.

10. For the 1996-1999 policy years, Genesis issued a total of 56 ski insurance policies using unapproved rates.

11. On April 21, 1999, the OIC issued a jeopardy letter to Genesis warning that the agency would commence an enforcement action against the company for its violations of Washington law.

12. Genesis has since fully cooperated with the OIC and has taken remedial action intended to improve compliance.

#### **CONCLUSIONS OF LAW**

1. Genesis's use of unfiled and unapproved rates is a violation of RCW 48.19.040 and RCW 48.19.043.

2. Genesis's failure to respond completely to OIC inquiries within fifteen business days is a violation of WAC 284-30-650.

3. RCW 48.05.185 authorizes the Commissioner to impose a fine in lieu of the suspension or revocation of a company's certificate of registration.

#### **CONSENT TO ORDER**

Genesis Insurance Company hereby admits to the foregoing Findings of Fact and Conclusions of Law.

The Commissioner has offered a settlement in lieu of suspending or revoking the company's certificate of registration.

By agreement of the parties, the OIC will impose a fine of \$150,000 and suspend \$75,000 on condition that:

1. Genesis pay \$75,000 of the fine for its violations of Washington insurance law.

2. Genesis obtain OIC approval of its ski insurance rates within ninety days of the entry of this consent order. The company will not be found in violation of this term of the agreement should the OIC be responsible for delays in the evaluation of information that the company submits in a timely fashion, or should the company discontinue writing the ski area program in Washington State. The OIC commits not to withhold unreasonably approval of the company's filing.

The OIC will waive the additional premiums for the six applicable policies and direct the WIEB to retire the delinquent tags for those six policies (policy nos. YXB000173C21B, YXB000220C15B, YXB00040601B, YXB000177D, YXB000329CO, YXB000173D22B; tag nos. Q01302, Q01303, Q02151, Q02152, Q02153, Q02154, respectively).

EXECUTED this 25<sup>th</sup> day of June, 1999.

GENESIS INSURANCE COMPANY

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ORDER**

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of one hundred fifty thousand dollars, with seventy-five thousand dollars suspended, upon Genesis Insurance Company. The fine must be paid in full within thirty days of the date of entry of this order. Failure to pay the fine within the allotted time shall constitute grounds for the revocation of the insurer's certificate of registration, and for the recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

The Commissioner may impose the balance of the suspended fine and suspend or revoke Genesis's certificate of registration should the company fail to meet the conditions set forth in the "Consent to Order" section of this order.

The OIC will waive the additional premiums for the six applicable policies and direct the WIEB to retire the delinquent tags for those six policies (policy nos. YXB000173C21B, YXB000220C15B, YXB00040601B, YXB000177D, YXB000329CO, YXB000173D22B; tag nos. Q01302, Q01303, Q02151, Q02152, Q02153, Q02154, respectively).

ENTERED AT OLYMPIA, WASHINGTON, this 29<sup>th</sup> day of June, 1999.

DEBORAH SENN  
Insurance Commissioner

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Jeffrey Coopersmith  
Deputy Insurance Commissioner  
for Legal Affairs